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REMARKS

Claims 8-11 and 33-51 are currently pending in the subject application and are presently under consideration. Claims 8-11 are allowed. Applicants' representative notes with appreciation the Examiner's indication that claims 39 and 40 would be allowable if rewritten in independent form. Applicants' respectfully reserve the right to do so if necessary at a later date. However, such amendments are not believed to be necessary at present in view of the comments herein. Favorable reconsideration of the subject patent application is respectfully requested in view of the comments herein.

I. Rejection of Claims 33-38 Under 35 U.S.C. §103(a)

Claims 33-38 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Udd *et al.* (U.S. 4,471,659) in view of what would have been obvious to one having ordinary skill in the art at the time the invention was made. It is respectfully submitted that this rejection should be withdrawn for at least the following reasons. Udd *et al.* does not teach or suggest applicant's invention as recited in the subject claims.

To reject claims in an application under §103, an examiner must establish a *prima facie* case of obviousness. A *prima facie* case of obviousness is established by a showing of three basic criteria. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *See* MPEP §706.02(j). The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *See In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Independent claim 33 recites a processor that *analyzes an amount of light received by a light receiver to determine a particular vibration state*. Udd *et al.* does not teach or suggest analyzing an *amount* of light received... to determine vibration state. Rather, the cited reference teaches employment of gratings so that in the event of vibration phase of light received

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is different than if vibration was not present. The amount of light received is constant unlike in applicant's claimed invention where the amount of light received by a detector is a function of vibration. More particularly, the present invention "determines vibration magnitude by computing a largest amplitude of the vibration signal over the sample period. The frequency of vibration is determined by computing changes in amplitude over the sample period." (page 24, II. 13-19). Thus, the processor of the present invention is analyzing *the amount of light* received by the light receiver to determine particular vibration state.

In view of the foregoing, it is readily apparent that Udd *et al.* does not teach or suggest applicant's invention as recited in the subject claims, and this rejection of independent claim 33 (and claims 34-38 that respectively depend there from) should be withdrawn.

II. Rejection of Claims 41-51 Under 35 U.S.C. §103(a)

Claims 41-51 stand rejected under 35 U.S.C. §103(a) as being obvious over Udd *et al.* It is respectfully submitted that this rejection be withdrawn for at least the following reasons.

Independent claims 42, 49 and 51 recite similar claim limitations which recite *analyzing an amount of light or remaining light in connection with determining vibration*. As noted supra, Udd *et al.* does not teach or suggest analyzing a quantity of received light to determine vibration as in the claimed invention. This rejection of independent claims 42, 49 and 51 (and claims 43-48, and 50 which depend there from) and claim 41 (which depends from claim 33) should be withdrawn.

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IV. Conclusion

The present application is believed to be in condition for allowance in view of the above comments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063.

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicant's undersigned representative at the telephone number below.

Respectfully submitted,

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